Before the Federal Communications Commission
Washington, D.C. 20554

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In the Matter of	)	
	)	
Application of	)	
Charter Communications, Inc.,	)	MB Docket No. 15-149
Time Warner Cable Inc., and	)	
Advanced/Newhouse Partnership for	)	
Consent to the Transfer of Control of	)	
Licenses and Authorizations	)	
	)	

COMMENTS OF DIGITAL LIBERTY AND AMERICANS FOR TAX REFORM

We would like to thank the Federal Communications Commission for the opportunity to provide comments regarding the Charter Communications, Time Warner Cable, and Bright House Networks proposed merger.

I. Introduction

On September 11, 2015, the Federal Communications Commission issued MB Docket No. 15-149, Application of Charter Communications, Inc., Time Warner Cable Inc., and Advance/Newhouse Partnership for consent to the transfer of control of licenses and Authorizations, seeking comment on the proposed merger of the three companies.

Commercial enterprises should be able to arrange themselves as they see fit in a free-market economy. In this particular case, the combined assets of Charter, Time Warner Cable, and Bright House, would put the newly formed Internet, video, and voice service provider on better footing to innovate and serve customers.

For consumers upgraded services are of primary import. While these commenters believe that the free-market is the best decider of competition, the FCC also considers competition.

In the following comments we would like to suggest that "New Charter," would enhance competition.

II. Video

Today, TWC and BHN already partner, in that TWC provides BHN with programming. "New Charter" will serve 17% of the nation's video subscribers, putting it in a competitive position with other MVPDs. For example, Comcast lands in the middle, serving about 22 percent of the U.S. market, and AT&T serves about 26% of the U.S. market.

In terms of competition via product offerings “New Charter” does not own any national video programing. This could be perceived as a negative, because some level of vertical integration is beneficial to consumers and competition. It is considering offering “skinny” TV bundles. These would be lower cost packages with fewer channels. This may be attractive to viewer who may want broadband access and a smaller number of traditional video channels.

III. Broadband

The “New Charter” will serve fewer than 30% of the nation’s broadband subscriptions at speeds of 25/3 Mbps and above, contributing to healthy competition among “New Charter” and the other 70% of broadband providers serving the same category.

Additionally, the combination of these three companies will provide current customers a much needed boost - “New Charter’s” introductory Internet Tier is 60 Mbps, and has no data caps, usage based pricing, modem fees, or early termination fees. All at a cheaper monthly rate than TWC currently offers.

Upon the completion of the transaction, 19.4 million Internet, 17.3 million video and 9.4 million voice customers will have the option to choose “New Charter,” which has significant advantages over its parent companies, including: an introductory Internet Tier of 60 Mbps with no data caps, usage based pricing, modem fees, or early termination fees. These changes, of course, will need to be phased in due to coordination needs and infrastructure updates. However, subscribers would have a backward compatible user interface to expedite the phase in and remove the need to purchase upgraded equipment.

VI. Over-the-Top

In addition to its different pricing models and package offerings, “New Charter” has an interesting opportunity to position itself in the Over-the-Top video market.

The FCC continues to express concern that OTT services will get shut out of the very competitive video marketplace. The “New Charter” response should be sufficient to allay any of those worries, particularly since Netflix supports the merger.

Charter filed with the FCC stating that it would not charge any website for faster access, would provide entry into a settlement-free peering (a local routing optimization method that allows two networks to exchange traffic without incurring transit fees) agreement with OTT streaming services through 2018.

Netflix filed a document with the FCC stating that it did not oppose the merger. This isn’t surprising, considering that Netflix is a major customer of Charter and Time Warner Cable, and accounts for about 37 percent of all download traffic in peak evening hours, according to research from Sandvine, a Canada-based networking company. Overall this policy isn't just good for Netflix. It's a positive for all OTT streaming services like Amazon Prime, HBO GO, Hulu and YouTube.

V. Conclusion

Counter to FCC's expressed concerns for competition and OTT in the video marketplace, there are many opportunities for innovative products especially in economies of scale. The combination of these three companies' assets would spur investment and innovation by allowing the company to spread fixed operating costs across a larger customer base.

Respectfully,

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